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09/746,684

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EXAMINER

GOLD, AVI M

ART UNIT

PAPER NUMBER

2157

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 09/746,684 | Applicant(s) IYENGAR ET AL. | |
| | Examiner AVI GOLD | Art Unit 2157 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to the RCE amendment filed on July 10, 2008. Claim 1 was amended. Claims 1-6 and 10-17 are pending.

Response to Amendment

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 and 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al., U.S. Patent No. 6,484,011, in view of Brooks et al., U.S. Patent No. 7,069,573, further in view of Dunlap et al., U.S. Patent No. 6,560,637.

Thompson teaches the invention substantially as claimed including an annunciator display device which is always on and which can wirelessly receive information to be display (see abstract).

As to claim 1, Thompson teaches a method utilizing for a local handheld device operable to receive content associated with a broadcast from a remote source, comprising:

receiving, by a local viewing device, the broadcast from the remote source (col. 1, lines 19-22, col. 3, lines 14-25, Thompson discloses a wireless display device receiving a content catalog by means of a broadcast);

displaying the broadcast with the local viewing device (col. 7, lines 11-15, col. 8, lines 15-19, Thompson discloses an advertisement, as part of a broadcast, appearing on a host device, which can be a television set);

receiving by the handheld device a content catalog, said catalog varying based at least in part on the broadcast from the remote source and identifying interactive content associated with the broadcast to augment the broadcast provided by a content provider, wherein the associated content is not the same as the broadcast and is presented contemporaneously with the broadcast (col. 1, lines 19-22, col. 3, lines 14-25, col. 6, lines 10-17, Thompson discloses a wireless display device receiving a content catalog by means of a broadcast, with some content being interactive; col. 3, lines 30-37, col. 7, lines 11-15, col. 8, lines 15-24, Thompson discloses an advertisement, as part of a broadcast, appearing on a host device, which can be a television set; while a more in depth version of the advertisement being interactively displayed on the wireless display device);

selecting by the handheld device interactive associated content in the content catalog (col. 6, lines 10-17, Thompson discloses pressing an arrow key on the device to choose content); and

the selected interactive associated content is synchronized with the broadcast received by the local viewing device (col. 9, lines 19-27, Thompson discloses the synchronization of a broadcast received by a device).

Thompson fails to teach the limitation further including catalog varying based on characteristics of the handheld device, content in a first data format incompatible with the handheld device, communicating a content selection, and receiving said selected content from the formatting agent in a second data format compatible with the handheld device wherein compatibility is based on at least in part on the characteristics of the handheld device.

However, Brooks teaches a personal broadcasting and viewing method of audio and video data using a wide area network (see abstract). Brooks teaches the use of a device receiving data in only one format and determining a processing program for the selected format and converting that data to the proper format (col. 2, line 57 – col. 3, line 5).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Thompson in view of Brooks to have a catalog varying based on characteristics of the handheld device, content in a first data format incompatible with the handheld device, communicating a content selection, and receiving said selected content from the formatting agent in a second data format compatible with the handheld device wherein compatibility is based on at least in part on the characteristics of the handheld device. One would be motivated to do so because it identifies incompatible content and then allows the user to view all of the available content on their device.

Thompson also fails to teach the limitation further including a local formatting agent.

However, Dunlap teaches a device for displaying presentations and for distributing presentations over a computer network (see abstract). Dunlop teaches local formatting on a device (col. 2, lines 10-14).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Thompson and Brooks in view of Dunlap to have a local formatting agent. One would be motivated to do so because it allows formatting conversions that don't need to be pre-planned on a server.

Regarding claim 2, Thompson and Brooks teach the method of claim 1, wherein the handheld device comprises a wireless coupling to the formatting agent (col. 3, lines 1-5, Brooks discloses a mobile client device wirelessly connected to the web server which does the converting).

Regarding claim 3, Thompson and Brooks teach the method of claim 1, wherein the content catalog content corresponding at least in part to broadcasts available for receipt by the viewing device (col. 1, lines 19-22, col. 3, lines 14-25, Thompson).

Regarding claim 4, Thompson and Brooks teach the method of claim 1, further comprising:

broadcasting the broadcast to the viewing device over a communication channel;

determining broadcast-related data for the broadcast; and
making said broadcast-related data available to a content initiator so that the content initiator associates said broadcast related data with the content catalog (col. 1, lines 19-22, col. 3, lines 14-25, Thompson).

Regarding claim 5, Thompson and Brooks teach the method of claim 4, further comprising:

providing, by a broadcaster, said broadcast-related data to a content provider so that the content provider makes said broadcast-related data available to the content initiator (col. 1, lines 19-22, col. 3, lines 14-25, Thompson).

Regarding claim 6, Thompson and Brooks teach the method of claim 1, further comprising:

retrieving said selected content from the content provider (col. 3, lines 14-25, Thompson);

converting by the formatting agent of the first data format into the second data format (col. 2, line 57 – col. 3, line 5);

Regarding claim 10, Thompson and Brooks teach the method of claim 1, wherein the content catalog comprises one or more of: links to content provider content, and embedded content provider content (col. 3, lines 14-25, col. 6, lines 10-17, Thompson).

Claims 11-17 do not teach or define any new limitations above claims 1 and 4-6 and therefore are rejected for similar reasons.

Response to Arguments

3. Applicant's arguments with respect to claims 1-6 and 10-17 have been considered but are moot in view of the new ground(s) of rejection.
4. In the interest of expedited prosecution, the Examiner would like to note that claim 11 uses functional language to describe claim elements. The term "capable of" raises questions as to the limiting effect of the functional language that follows them. The Examiner recommends amending the claims to contain positive recitations of the actions performed by the claim elements, rather than merely stating that the elements are "capable of" performing a future act. In the event that a hardware element is intended to contain software, which when executed, causes the hardware element to perform a function, the language of the claim should clearly express that relationship.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,574,660 to Pashupathy et al.

U.S. Pat. No. 6,317,795 to Malkin et al.

U.S. Pat. No. 6,259,405 to Stewart et al.

U.S. Pat. No. 6,671,715 to Langseth et al.

U.S. Pat. No. 6,166,778 to Yamamoto et al.

U.S. Pat. No. 6,567,660 to Wegener et al.

U.S. Pat. No. 6,088,455 to Logan et al.

U.S. Pat. No. 6,412,112 to Barrett et al.

U.S. Pat. No. 6,587,835 to Treyz et al.

U.S. Pat. No. 6,457,047 to Chandra et al.

U.S. Pat. No. 6,343,318 to Hawkins et al.

U.S. Pat. No. 6,331,865 to Sachs et al.

U.S. Pat. No. 6,154,772 to Dunn et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AVI GOLD whose telephone number is (571)272-4002. The examiner can normally be reached on M-F 8:00-5:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2157

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Avi Gold

Patent Examiner

Art Unit 2157

AMG

/Ario Etienne/

Supervisory Patent Examiner, Art Unit 2157